REGISTERED No. T. 10. REGISTERED No. M. 4631

GAZETTE EXTRAORDINARY

PUBLISHED BY AUTHORITY

VOL. I] THURSDAY, 6th APRIL 1950/24th MEENAM 1125. [No. 8]

CONTENTS.

Printed and Published by the Superintendent, Government Press, Trivandrum: 1950.

REPORT OF THE SELECT COMMITTEE ON THE TRAVANCORE—COCHIN DRUGS (CONTROL) BILL.

To

The Speaker, Legislative Assembly.

Sir,

We, the undersigned members of the Select Committee appointed to consider and report on the Travancore-Cochin Drugs (Control) Bill, have considered the Bill clause by clause, and beg to submit this our

REPORT.

1. The Bill was published in the Gazette Extraordinary dated the 5th January 1950.

2. We are of opinion that the Bill may be adopted subject to the following amendments:

(i) In the Title and sub-clause (1) of Clause (1) for the words "United State of Travancore and Cochin" substitute the word "Travancore-Cochin".

(ii) In sub-clause (1) of Clause (1) for the figures "1125" substitute the figures "1950".

(iii) In the Preamble and sub-clause (2) of Clause (1) for the words "United State" substitute the words "State of Travancore-Cochin".

(iv) Delete Clause 20 of the Bill.

Sd. R. K. Madhavan

„ D. Gnanasigamony (with right to move amendments)

„ R. Atchuthan.

Trivandrum,
4th April 1950.

V. Krishnamoorthi Aiyar,
Secretary, Legislative Assembly.

THE TRAVANCORE—COCHIN DRUGS (CONTROL) BILL.

(As revised by the Select Committee.)

A BILL TO PROVIDE FOR THE CONTROL OF THE SALE, SUPPLY AND DISTRIBUTION OF DRUGS.

Preamble.

Whereas it is necessary to provide for the control of the sale, supply and distribution of drugs in the "State of Travancore-Cochin";

It is hereby enacted as follows:—

Short title, extent and commencement.

1. (1) This Act may be called "the Travancore-Cochin Drugs (Control) Act, 1950.

(2) It extends to the whole of the "State of Travancore-Cochin".

(3) It shall come into force at once.

Interpretation.

2. (1) In this Act, unless there is anything repugnant in the subject or context—

(a) "dealer" means a person carrying on, either personally or through any other person, the business of selling any drugs, whether whole sale or retail;

(b) "drug" includes all medicines for internal or external use of human beings or animals, and all substances intended to be used for or in the treatment, mitigation or prevention of disease in human beings or animals, (other than medicines, and substances exclusively used or prepared for use in accordance with the Ayurvedic or Unani systems of medicine) in respect of which a declaration has been made under Section 3;

(c) "offer for sale" includes a reference to an intimation by a person of the price proposed by him for a sale of any drug, made by the publication of a price list, by exposing the drug for sale in association with a mark indicating price, by the furnishing of a quotation or otherwise howsoever;

(d) "producer" includes a manufacturer.

(2) A drug shall be deemed to be in the possession of a person—

(i) when it is held on behalf of that person by another person;

(ii) notwithstanding that it is mortgaged to another person.

Drugs to which this Act applies.

3. The Government may, by notification in the Gazette, declare any drug to be a drug to which this Act shall apply.

4. (1) The Government may, by notification in the Gazette, fix in respect of any drug—

Fixing of maximum prices and maximum quantities which may be held or sold.

(a) the maximum price or rate which may be charged by a dealer or producer;

(b) the maximum quantity which may at any one time be possessed by a dealer or producer;

(c) the maximum quantity which may in any one transaction be sold to any person.

(2) The prices or rates and the quantities fixed in respect of any drug under this Section may be different in different localities or for different classes of dealers or producers.

5. No dealer or producer shall—

Restrictions on sale, etc., where maximum is fixed under Section 4.

(a) sell, agrees to sell, offer for sale or otherwise dispose of to any person any drug for a price or at a rate exceeding the maximum fixed by notification under clause (a) of sub-section (1) of Section 4;

(b) have in his possession at any one time a quantity of any drug exceeding the maximum fixed by notification under clause (b) of sub-section (1) of Section 4; or

(c) sell, agree to sell or offer for sale to any person in any one transaction a quantity of any article exceeding the maximum fixed by notification under clause (c) of sub-section (1) of Section 4.

6. (1) No person shall have in possession at any one time a greater quantity of any drug to which this section applies than the quantity necessary for his reasonable needs.

General limitation on quantity which may be possessed at one time.

(2) This section shall apply only to such drugs as the Government may, by order published in the Gazette, specify for the purpose:

Provided that nothing contained in this section, shall apply to a dealer or producer in respect of any drug sold or produced by him.

7. Any person having in his possession a quantity of any drug exceeding that permitted by or under this Act shall forthwith report the fact to the Government or other officer empowered in this behalf by the Government, and shall take such action as to the storage, distribution or disposal of the excess quantity as the Government may direct.

Duty to declare possession of excess stocks.

8. No dealer or producer shall, unless previously authorised to do so by the Government, without sufficient cause refuse to sell to any person any drug within the limits as to quantity, if any, imposed by this Act.

Refusal to sell.

Explanation—The possibility or expectation of obtaining a higher price for a drug at a later date shall not be deemed to be a sufficient cause for the purpose of this section.

9. (1) Every dealer or producer when selling any drug for cash shall, if the amount of the purchase is five rupees or more, in all cases, and, if the amount of the purchase is less than five rupees, when so requested by the purchaser, give to the purchaser a cash memorandum containing particulars of the transaction.

Cash memorandum to be given of certain sales.

(2) The Government may, by notification in the Gazette, prescribe the particulars to be contained in any such cash memorandum.

(3) The Government may, by notification in the Gazette, exempt specified areas, classes of dealers or producers, or classes of drugs from the operation of this section.

10. (1) The Government may direct dealers or producers in general or any dealer or producer in particular, to mark any drug exposed or intended for sale with the sale prices or to exhibit on the premises a price list of drugs held for sale, and may further give directions as to the manner in which any such direction as aforesaid is to be carried out.

Marking of prices and exhibiting price list.

(2) No dealer shall destroy, efface or alter any label or mark affixed to a drug and indicating the price marked by a producer.

11. Where a dealer or producer makes an offer to enter into a transaction for a consideration to be given as a whole in respect both of a sale of any drug and of some other matter, the dealer or producer making the offer shall state in writing the price which he assigns to that drug, if he is required to do so by any person to whom the offer is made, and the offer shall be deemed for the purposes of this Act to be an offer to sell that drug at the price so stated.

Obligation to state price separately on composite offer.

12. (1) If in the opinion of the Government it is necessary or expedient so to do, they may, by order in writing—

Prohibition of sale etc. and requisitioning of drugs.

(a) prohibit the disposal of any drug except in such circumstances and under such conditions as may be specified in the order;

(b) direct the sale of any drug to any such dealer or class of dealers and in such quantities as may be specified in the order ;

(c) requisition any drug (whether at the place of import or at any other place) ;

and make such further orders as appear to them to be necessary or expedient in connection with any order issued under this sub-section.

(2) Where the Government have requisitioned any drug under sub-section (1) they may use or deal with the drug in such manner as may appear to them to be expedient, and may acquire it by serving on the owner thereof or, where the owner is not readily traceable or the ownership is in dispute, by publishing in the Gazette a notice stating that the Government have decided to acquire it in pursuance of this section.

(3) Where a notice of acquisition is served on the owner of the drug or published in the Gazette under sub-section (2), then at the beginning of the day on which the notice is so served or published, the drug shall vest in the Government free from any encumbrance and the requisition thereof shall be deemed to have ended.

(4) Wherever in pursuance of this section the Government requisition or acquire any drug, the owner thereof shall be paid such compensation as the Government may, by rules prescribe.

(5) The Government may, with a view to requisitioning any drug under sub-section (1) or determining the compensation payable under sub-section (4) by order:—

(a) require any person to furnish to such authority as may be specified in the order such information in his possession relating to the drug as may be so specified ;

(b) direct that the owner of the drug shall not, without the permission of the Government, dispose of it till the expiry of such period as may be specified in the order.

Penalties.

13. (1) Whoever contravenes any of the provisions of this Act or of any direction made under authority conferred by this Act shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

(2) A Court convicting any person of any offence punishable under this Act may order that the whole or any part of the stock of drugs in respect of which the offence was committed shall be forfeited to the Government.

(3) It shall be a defence for a person charged with a contravention of any of the provisions of this section to prove that, in relation to the matter in respect of which he is charged, he acted in the course of his employment as a servant or agent of another person on the instructions of his employer or some other specified person.

Offences by corporation.

14. Where a person committing an offence punishable under this Act is a company or an association or a body of persons, whether incorporated or not, every director, manager, secretary, agent or other officer or person concerned with the management thereof, shall, unless he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent its commission be deemed to be guilty of such offence.

Procedure.

15. (1) No person other than a police officer of or above the rank of an Inspector of Police or an officer not below the rank of an Inspector of Police authorised in this behalf by the Government by notification in the Gazette, shall investigate any offence under this Act.

(2) No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the District Magistrate.

Powers of search and seizure.

16. Any person competent to investigate any offence under this Act may search any place in which he has reason to believe that an offence under this Act has been, or is being committed, and taken possession of any stock of drugs in respect of which the offence has been or is being committed.

Power to make rules.

17. (1) The Government may make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the maintenance by dealers and producers generally, or by any dealer or producer in particular, of records of all sale and purchase transactions made by them ;

(b) the furnishing of any information as may be required with respect to the business carried on by any dealer or producer ;

(c) the inspection of any books of account or other documents belonging to or under the control of any dealer or producer ;

(d) the compensation which shall be payable under Section 12 and the manner in which such compensation shall be determined.

Protection of action taken in good faith.

18. No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act.

Saving of other laws.

19. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with in this Act.

V. KRISHNAMOORTHI AIYAR,
Secretary to the Legislative Assembly.